

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

(1) VICTOR BIRMINGHAM,)
)
Plaintiff,)
)
v.) Case No. CIV-13-187-HE
)
)
(1) METROPOLITAN GROUP PROPERTY)
AND CASUALTY INSURANCE COMPANY,)
)
)
Defendant.)

NOTICE OF REMOVAL

COMES NOW Metropolitan Group Property and Casualty Insurance Company, improperly named as defendant Metlife Automobile Insurance Company in the caption of plaintiff's Petition, and pursuant to 28 U.S.C. § 1446 and Fed. R. Civ. P. 81(c) states:

1. The above entitled suit was filed in the District Court of Oklahoma County, State of Oklahoma as Case No. CJ-2013-200 on January 1, 2013. Metropolitan Group Property and Casualty Insurance Company received notice of the action on January 22, 2013, when the plaintiff's Petition was received by The Corporation Company, its service agent. Receipt of the Petition by The Corporation Company on January 22, 2013 was the first notice Metropolitan Group Property and Casualty Insurance Company received of this suit. In accordance with 28 U.S.C. §1446(a) and LCvR 81.2, a copy of the docket sheet and a copy of all documents filed or served in the Oklahoma County case are attached to this Notice as Exhibit "1" through "3".

2. On January 13, 2013, plaintiff's counsel agreed to file an Amended Petition to correctly name the defendant, Metropolitan Group Property and Casualty Insurance Company. Plaintiff's attorney advises the undersigned that the Amended Petition attached as Exhibit "4" was mailed to the District Court of Oklahoma County on or about February 11, 2013. As of this date, however, the court docket does not reflect that it has been filed. The style of this case in this court should reflect the correct names of the parties, as set forth in the caption above.

3. Plaintiff Victor Birmingham is a resident of Oklahoma County, Oklahoma.

4. Defendant Metropolitan Group Property and Casualty Insurance Company is licensed to do business in the State of Oklahoma, incorporated in the State of Rhode Island and its principal place of business is in Rhode Island; therefore, Metropolitan Group Property and Casualty Insurance Company is deemed to be a Rhode Island citizen for purposes of diversity.

5. Jurisdiction is conferred upon this Court pursuant to 28 U.S.C. § 1332. Removal is proper pursuant to 28 U.S.C. §1441, et seq.

6. In this case, Plaintiff brings causes of action for breach of an insurance contract and the tort of bad faith against Metropolitan Group Property and Casualty Insurance Company, incorrectly named in the original Petition as MetLife Automobile Insurance Company, arising from a motor vehicle accident.

7. The Petition alleges that Plaintiff seeks damages "in the amount of \$25,000.00

on the contract claim" plus "an amount in excess of the amount required for diversity jurisdiction pursuant to Section 1332 of Title 28 of the United States Code on the tort claim."

8. Pursuant to 28 U.S.C. § 1332(a)(1), this Court has jurisdiction because of the complete diversity of citizenship of the parties and there is a sufficient amount in controversy.

9. Pursuant to 28 U.S.C. § 1446(a), Defendant acknowledges that this Notice of Removal is signed and filed pursuant to Rule 11 of the Federal Rules of Civil Procedure.

WHEREFORE, Defendant, Metropolitan Group Property and Casualty Insurance Company requests this Notice of Removal be accepted by this Court and that the lawsuit proceed as an action properly removed to this Court's jurisdiction.

Respectfully submitted,

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/s/ Barbara K. Buratti

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Attorneys for Defendant
Metropolitan Group Property and Casualty
Insurance Company

CERTIFICATE OF SERVICE

X I hereby certify that on February 21, 2013, I electronically transmitted the attached document to the Clerk of the Court using the ECF System for filing. Based on the records currently on file, the Clerk of Court will transmit a Notice of Electronic Filing to the following ECF registrants:

Jessika Tate, OBA #22013
510 N. Sheridan Road, Suite A
Tulsa, OK 74115
Telephone: 918-805-3955
Facsimile: 918-430-3516
Email: Jessika@jtatetulsalaw.com
Attorney for Plaintiff

____ I hereby certify that on February 21, 2013, I served the attached document by Certified, Return Receipt Requested on the following, who are not registered participants of the ECF System:

/s/ Barbara K. Buratti
Barbara K. Buratti